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EXAMINER

BLAND, LAYLA D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action

This office action is in response to Applicant's proposed amendment and response after FINAL filed on September 25, 2008.

Applicant's remarks/arguments filed September 25, 2008 after FINAL with respect to the prior art rejections of record have been fully considered but are not found to be persuasive.

The amended claims are drawn to the treatment of a subject suffering from imbalanced colon fermentation. Applicant argues that the cited references do not teach administration of polydextrose to a subject suffering from imbalanced colon fermentation. Although the cited references are silent regarding imbalanced colon fermentation, the definition of "imbalanced fermentation" in the instant specification does not distinguish the claims from the patient populations taught in the prior art. The specification states that imbalanced fermentation means that energy available for bacteria in the colon is not distributed evenly along the colon, leading to local high or low amounts of metabolites from fermentation. Sensitivity to nutrients or inflammation can lead to imbalanced fermentation, as can use of proteins as an energy source or too much energy release in the proximal part of the colon. Because the definition of imbalanced colon fermentation is so broad, subjects suffering from such can be considered any subject. Thus, Applicant's amendment does not overcome the prior art rejections of record.

All rejections of record in the Final Office Action dated July 25, 2008 are maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAYLA BLAND whose telephone number is (571)272-9572. The examiner can normally be reached on Tuesday - Friday, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anna Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shaojia Anna Jiang, Ph.D./
Supervisory Patent Examiner, Art Unit 1623

/Layla Bland/
Examiner, Art Unit 1623